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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200832
Party	Defendant Honda Giken Kogyo Kabushiki Kaisha (Honda Motor Co., Ltd.)
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Date	07/31/2015
Attachments	Applicant's Pretrial Disclosures.pdf(17253 bytes)

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BRIGGS & STRATTON CORPORATION and KOHLER CO.,)	
)	
Opposers,)	Opposition No. 91200832 (parent)
)	
v.)	Opposition No. 91200146
)	
HONDA GIKEN KOGYO KABUSHIKI KAISHA,)	Application Serial No. 78924545
)	
Applicant.)	
)	
)	

APPLICANT’S PRETRIAL DISCLOSURES

Applicant Honda Giken Kogyo Kabushiki Kaisha (“Honda”), respectfully submits the following pretrial disclosures to Opposers Briggs & Stratton Corporation (“Briggs”) and Kohler Co. (“Kohler”) (collectively, “Opposers”), pursuant to 37 C.F.R. § 2.121 and TBMP § 702.1 as follows:

I. APPLICANT’S TRIAL WITNESSES WHO MAY BE CALLED TO TESTIFY

Applicant hereby identifies the following individuals from whom it intends to take testimony, or may take testimony in the event the need arises, during its testimony period of this Opposition, and provides a general summary of the subjects about which such witnesses are or may be expected to testify.

A. Scott Conner

Scott Conner
Vice President
American Honda Motor Company
Power Equipment Division
4900 Marconi Drive
Alpharetta, GA 30005

Mr. Conner should be contacted through counsel for Honda.

Mr. Conner will testify regarding (1) the background and history of Honda products embodying the applied-for mark that is the subject of Application Serial No. 78924545 (“GX Engine Trade Dress”) in the United States; (2) exclusivity, length, and manner of use of the GX Engine Trade Dress by Honda in the United States; (3) sales of products embodying the GX Engine Trade Dress in the United States; (4) marketing and advertising of products embodying the GX Engine Trade Dress in the United States; (5) awards and industry recognition related to Honda products embodying the GX Engine Trade Dress; (6) the market, customers, channels of trade, and competition in the United States for products embodying the GX Engine Trade dress; (7) copying of the GX Engine Trade Dress by other companies in the United States; (8) Honda’s efforts to enforce and prevent copying of the GX Engine Trade Dress in the United States; (9) distinctiveness of the GX Engine Trade Dress; and (10) differences between the GX Engine Trade Dress and third-party engines.

B. Motohiro Fujita

Motohiro Fujita
Chief Engineer
Honda R&D Co., Ltd.
Internal Audit Division
1-4-1, Chuo
Wako-shi, 351-0-113
Japan

Mr. Fujita should be contacted through counsel for Honda.

Mr. Fujita has testified regarding (1) the background of the development of Honda GX engines; (2) the performance design/engineering of Honda GX Engines; (3) the styling design of Honda GX Engines; and (4) manufacturing and cost considerations related to the GX Engine Trade Dress.

C. Yukio Sugimoto

Yukio Sugimoto
Chief Engineer
Honda R&D Co., Ltd.
Development Division 1
1-4-1, Chuo
Wako-shi, 351-0-113
Japan

Mr. Sugimoto should be contacted through counsel for Honda.

Mr. Sugimoto has testified regarding the late 2010/early 2011 refresh of large Honda GX Engines, and the late 2011/early 2012 refresh of mid-size Honda GX Engines.

D. James Mieritz

James Mieritz
4315 Collingtree Drive
Rockledge, FL 32955

Mr. Mieritz should be contacted through counsel for Honda.

Mr. Mieritz will provide expert testimony regarding the non-functionality of the Honda GX Engine Trade Dress. Mr. Mieritz will also provide expert testimony rebutting the opinions of Opposers' expert, Professor John Reisel.

E. George Mantis

George Mantis
The Mantis Group, Inc.
2032 N. Kenmore
Chicago, IL 60614

Mr. Mantis should be contacted through counsel for Honda.

Mr. Mantis will provide expert testimony regarding consumer survey evidence demonstrating that the Honda GX Engine Trade Dress has acquired secondary meaning. Mr. Mantis will also provide expert testimony rebutting the opinions of Opposers' expert, Mr. Hal Poret.

II. TYPES OF DOCUMENTS AND THINGS THAT APPLICANT MAY INTRODUCE DURING THE TESTIMONY OF ITS TRIAL WITNESSES

Applicant hereby identifies the following summary of the types of documents and things which may be introduced as exhibits during the testimony of Applicant's witnesses:

1. photographs of engines manufactured, offered for sale, or sold by Honda embodying the GX Engine Trade Dress, and power equipment products incorporating such engines;
2. documents concerning the use by Honda of the GX Engine Trade Dress;
3. documents concerning Honda's efforts to enforce the GX Engine Trade Dress;
4. documents concerning the design and manufacture by Honda of products embodying the GX Engine Trade Dress;
5. documents concerning the advertising, marketing, merchandizing, and promotion of products embodying the GX Engine Trade Dress by Honda and/or its customers;
6. documents concerning recognition of the GX Engine Trade Dress by consumers in relevant market(s), including but not limited to survey evidence and distributor declarations;
7. documents concerning sales by Honda of products bearing the GX Engine Trade Dress;
8. documents concerning the markets, customers, potential customers, and channels of trade in the United States for products embodying the GX Engine Trade Dress;
9. documents concerning competition in the market for horizontal shaft utility engines in the United States;
10. documents concerning the market position and reputation of Honda's products embodying the GX Engine Trade Dress, including but not limited to awards;
11. documents concerning the copying by others of the GX Engine Trade Dress;

12. documents reflecting the acknowledgement by third parties of the validity of the GX Engine Trade Dress, including its distinctiveness and non-functionality;
13. documents concerning Opposers' creation, consideration, design, development, testing, selection, adoption, manufacture, and use of Opposers' horizontal shaft utility engines, and any alternative designs considered;
14. documents concerning the advertising, marketing, merchandising, promotion, or sale of Opposers' horizontal shaft utility engines;
15. documents concerning the revenues, sales, profits, losses, expenses, and costs of manufacture of Opposers' horizontal shaft utility engines;
16. documents concerning Opposers' awareness of the GX Engine Trade Dress;
17. communications and/or documents concerning communications between Opposers and third parties concerning Honda, GX Engines, products manufactured using the GX Engines, or the GX Engine Trade Dress;
18. documents concerning Honda's and/or Opposers' design patents on horizontal shaft utility engines, or their components;
19. photos of Opposers' engines and/or third party engines that compete or have competed with the GX engines in the United States;
20. documents and correspondence during prosecution of the GX Engine Trade Dress; and
21. documents produced by the parties during this Opposition.

Respectfully submitted,

Dated: July 31, 2015

/s/ Shira Hoffman

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Applicant's Pretrial Disclosures was served by
FedEx this 31st day of July, 2015 upon:

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